

WB IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DANIEL MANATT AND GAREN MEGUERIAN

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1163

v

**UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,**

and

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES.

Defendants.

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FILED

MAR 19 2019

KATE BARKMAN, Clerk
By _____ Dep. Clerk

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Daniel Manatt and Garen Meguerian, by way of their Complaint against Defendants the Department of Homeland Security (DHS) and United States Citizenship and Immigration Services (USCIS), a component of DHS, hereby states:

INTRODUCTION

1. This action is brought under the Freedom of Information Act (FOIA), 5 U.S.C. §552, to compel the USCIS to produce records responsive to a FOIA request for records concerning the so-called “Zero-Tolerance Policy for Criminal Illegal Entry” (Zero-Tolerance Policy) announced by the Department of Justice on or about April 6, 2018.

JURISDICTION & VENUE

2. This Court has jurisdiction under 28 U.S.C. §1331 and 5 U.S.C. §552(a)(4)(B).

3. Venue lies in the United States District Court for the Eastern District of

Pennsylvania under 5 U.S.C. §552(a)(4)(B) and 28 U.S.C. §1391(e)(1).

PARTIES

4. Plaintiff Daniel Manatt is an adult individual, an attorney and a documentary filmmaker residing in the Bethesda, Maryland.

5. Plaintiff Garen Meguerian is an adult individual and an attorney residing in Chester County, Pennsylvania – within the jurisdictional limit of this Court.

6. Plaintiffs submitted the FOIA request at issue.

7. Defendant DHS is an agency of the United States, and defendant USCIS is a component of defendant DHS; Defendants have possession of and control over the records sought by the Plaintiffs.

FACTUAL BACKGROUND

8. On or about October 9, 2018, Plaintiffs submitted a FOIA request to USCIS, seeking copies of certain communications pertaining to the Zero-Tolerance Policy.

9. Specifically, Plaintiffs requested:

1. Any and all records reflecting communications with Lee Francis Cissna concerning the so-called “Zero-Tolerance Policy for Criminal Illegal Entry” announced by the Department of Justice on or about April 6, 2018 (hereinafter “Zero-Tolerance Policy”).

2. Any and all records reflecting communications by and between USCIS Leadership and the Department of Justice concerning the Zero-Tolerance Policy.

3. Any and all records reflecting communications by and between USCIS Leadership and the Trump Administration concerning the Zero-Tolerance Policy.

4. Any and all records reflecting communications by and between USCIS Leadership concerning the anticipated detention of children as an anticipated result of the Zero-Tolerance Policy.

5. Any and all records reflecting communications by and between USCIS Leadership concerning the anticipated separation of children from their parents as an anticipated result of the Zero-Tolerance Policy.

6. Any and all records reflecting any objections by USCIS Leadership to the implementation of the Zero-Tolerance Policy and/or the detention of children or the separation of children from their parents.

7. Any and all records reflecting communications at USCIS Leadership concerning the consistency or inconsistency of the Zero-Tolerance Policy with international law.

8. Any and all records reflecting communications by and between USCIS Leadership concerning the consistency or inconsistency of the Zero-Tolerance Policy with the laws and regulations of the United States.

9. Any and all records reflecting communications by and between USCIS Leadership concerning efforts to reunite children with parents, separated as a result of the Zero-Tolerance Policy.

10. Any and all records reflecting communications between USCIS Leadership and the US Health and Human Services Department / Office of Refugee Resettlement concerning the Zero-Tolerance Policy.

11. Any and all records concerning any justification(s) offered for the separation of children from their parents as a result of the Zero-Tolerance Policy.

12. Any and all records reflecting communications between USCIS Leadership and the Department of Homeland Security concerning the Zero-Tolerance Policy.

13. Any and all communication by and between USCIS Leadership and Stephen Miller, who serves as a senior advisor for policy for President Trump, concerning the Zero-Tolerance Policy, the detention of children, and/or the separation of children from their parents.

14. Any and all records reflecting communications between USCIS Leadership and the Customs and Border Patrol concerning the Zero-Tolerance Policy.

15. Any and all records reflecting communications between USCIS Leadership and the US Immigration and Customs Enforcement concerning the Zero-Tolerance Policy.

16. Any and all records reflecting communications between USCIS Leadership and the Department of Defense concerning the Zero-Tolerance Policy.

17. Any and all records reflecting communications between USCIS Leadership and any elected officials from the States of Texas, Arizona and California concerning the Zero-Tolerance Policy.

18. Any and all records reflecting communications between USCIS Leadership and any private contractors operating under the color of federal authority,

including but not limited to MVM, Southwest Key Programs and General Dynamics, concerning the Zero-Tolerance Policy.

19. Any and all communication by and between Lee Francis Cissna and Stephen Miller, who serves as a senior advisor for policy for President Trump, concerning immigration.

20. Any and all records reflecting communications between USCIS Leadership and the National Security Council concerning the Zero-Tolerance Policy.

21. Any and all records reflecting communications between USCIS Leadership and the Domestic Policy Council concerning the Zero-Tolerance Policy.

22. Any and all records reflecting an analysis of the anticipated or actual impact of the Zero Tolerance Policy on Flores Settlement Agreement.

23. Any and all records supporting or undermining the statement that “[f]amily groups are one of the most challenging populations to the integrity of the immigration enforcement system” – made in the announcement to the Zero-Tolerance Policy.

24. Any and all records supporting or undermining the statement that “[DHS] continues to diligently pursue numerous pathways to address this flow [of immigrants] consistent with our laws, in coordination with federal interagency, departmental and foreign partners” – made in the announcement to the Zero-Tolerance Policy.

25. Any and all records reflecting communications by and between USCIS Leadership concerning the consistency or inconsistency of the Zero-Tolerance Policy with the 8th Amendment to the Constitution of the United States.

26. Any and all records reflecting communications by and between USCIS Leadership concerning the consistency or inconsistency of the Zero-Tolerance Policy with the 14th Amendment to the Constitution of the United States and Title VII of the Civil Rights Act.

27. Any and all records reflecting communications by and between USCIS Leadership concerning the consistency or inconsistency of the Zero-Tolerance Policy with the Refugee Act of 1980.

28. Any and all records reflecting communications by and between USCIS Leadership concerning the consistency or inconsistency of the Zero-Tolerance Policy with the United Nations 1951 Convention and the 1967 Protocol.

10. A true and correct copy of Plaintiffs' October 9, 2018 FOIA request is attached hereto as Exhibit "A".

11. Plaintiffs included a request for a waiver of all fees in their FOIA request.

12. USCIS did not respond to or even acknowledge the FOIA request.

13. On December 20, 2018, Plaintiffs wrote to USCIS's FOIA Officer Jill Eggleston, enclosing another copy of the FOIA request, and demanding a response within the time permitted under 5 U.S.C. §552.

14. A true and correct copy of Plaintiffs' December 20, 2018 correspondence is attached hereto as Exhibit "B".

15. On or about January 2, 2019, an individual purporting to be from USCIS called Plaintiff Meguerian to state that USCIS was working to compile the responsive records.

16. Nearly six months have passed since USCIS received Plaintiffs' FOIA request, and USCIS has neither made a final determination nor produced any records in response to Plaintiffs' request.

COUNT I
FOIA – Failure to Disclose Responsive Records

17. Plaintiffs incorporate the preceding paragraphs of their complaint as though fully set forth herein at length.

18. Under 5 U.S.C. §552(a)(6)(C)(i), Plaintiffs have exhausted all administrative remedies with respect to their October 9, 2017 FOIA request.

19. Plaintiffs have a statutory right under FOIA, 5 U.S.C. §552(a)(3)(A), to the records they requested and there is no legal basis for Defendants' failure to disclose them.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court:

- A. Declare that Defendants' withholding of the requested records is unlawful;
- B. Order Defendants to make the requested records available to Plaintiffs at no cost and without delay;

- C. Award Plaintiffs their costs and reasonable attorneys' fees pursuant to 5 U.S.C. §552(a)(4)(E); and
- D. Grant such other and further relief as this Court may deem just and proper.

GAREN MEGUERIAN, ATTORNEY AT LAW, LLC



March 18, 2019

By: **Garen Meguerian, Esquire**
PA ID No. 78588
21 Industrial Boulevard, Suite 201
Paoli, Pennsylvania, 19301
gm@garenmlaw.com
(610) 590-2176
Attorney for Plaintiffs

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CIVIL COVER SHEET

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

(a) PLAINTIFFS

Daniel Manatt & Garen Meguerian

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Montgomery County, MD

(c) Attorneys (Firm Name Address and Telephone Number)
Garen Meguerian, Attorney at Law, LLC21 Industrial Blvd, Suite 201
Paoli, PA 19301

DEFENDANTS

US Dept of Homeland Security & US Citizenship and Immigration Services

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

District of Columbia

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

 1 U.S. Government Plaintiff 3 Federal Question
(U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 386 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 388 Property Damage Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine			<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability			<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 892 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 893 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 864 SSID Title XVI	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 865 RSI (405(g))	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer w/Disabilities - Other	Other:		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
V. ORIGIN (Place an "X" in One Box Only)				
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)
<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 7 Multidistrict Litigation - Direct File			

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)
5 U.S.C 552

Brief description of cause

Plaintiffs seek records responsive to FOIA requests

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.C.P.

DEMAND \$

CHECK YES only if demanded in complaint
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

03/17/2019

FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OF RECORD

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

MAR 19 2019

WB

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA19-CV-1163
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DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Daniel Manatt, 440 Highland Ave Bethesda MD 20814 / Garen Meguerian, 129 Magnolia Dr., Phoenixville, PA 19460

Address of Defendant: USDHS, 301 7th St. SW, Washington, DC 20528 / USCIS, 20 Massachusetts Ave NW, Washington, DC 20529

Place of Accident, Incident or Transaction:

Pennsylvania / DC

RELATED CASE, IF ANY:

Case Number N/A

Judge.

Date Terminated

Civil cases are deemed related when Yes is answered to any of the following questions

- 1 Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes No
- 2 Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes No
- 3 Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? Yes No
- 4 Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes No

I certify that, to my knowledge, the within case is is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE 03/17/2019

Attorney-at-Law / Pro Se Plaintiff

78588

Attorney ID # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases.

- 1 Indemnity Contract, Marine Contract, and All Other Contracts
 2 FELA
 3 Jones Act-Personal Injury
 4 Antitrust
 5 Patent
 6 Labor-Management Relations
 7 Civil Rights
 8 Habeas Corpus
 9 Securities Act(s) Cases
 10 Social Security Review Cases
 11 All other Federal Question Cases
(Please specify)

FOIA - 5 U.S.C. 552

B. Diversity Jurisdiction Cases.

- 1 Insurance Contract and Other Contracts
 2 Airplane Personal Injury
 3 Assault, Defamation
 4 Marine Personal Injury
 5 Motor Vehicle Personal Injury
 6 Other Personal Injury (*Please specify*)
 7 Products Liability
 8 Products Liability - Asbestos
 9 All other Diversity Cases
(Please specify)

Garen Meguerian

, counsel of record or pro se plaintiff, do hereby certify

ARBITRATION CERTIFICATION
(The effect of this certification is to remove the case from eligibility for arbitration)

Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs

Relief other than monetary damages is sought

DATE 03/17/2019

Attorney-at-Law / Pro Se Plaintiff

78588

Attorney ID # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38

MAR 19 2019

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Daniel Manatt & Garen Meguerian

CIVIL ACTION

v.

US. Department of Homeland Security and
US Citizenship and Immigration Services

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NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus - Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security - Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration - Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos - Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management - Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management - Cases that do not fall into any one of the other tracks. (X)

3/17/19
Date

Garen Meguerian
Attorney-at-law

Plaintiffs Manatt & Meguerian
Attorney for

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FAX Number

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(Civ. 660) 10/02

MAR 19 2019